

Notice of Allowability

Application No.

10/558,441

Examiner

Michele Flood

Applicant(s)

GOLZ-BERNER ET AL.

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/28/2005.
2. ☒ The allowed claim(s) is/are 6-9.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 1/2/2008
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Acknowledgment is made of the receipt and entry of the amendment filed on November 28, 2005.

Allowable Subject Matter

Claims 6-9 are allowed.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Greg Lefkowitz on January 22, 2008.

The application has been amended as follows:

IN THE CLAIMS:

In Claim 6, line 8, after "*archangelica*," add - - and - -.

In Claim 6, line 11, delete "mg", and add - - milligram (mg) - -.

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Green Coffee Bean or coffea

Camellia sinensis or Thea sinensis or Thea bohea or Thea viridis

(Fabaceae or Leguminosae) Pongamia pinnata or Indian Beech Tree or Pongam Tree
or Karum Tree or Pongam or Karum or Panigrahi

(Apiaceae or Umbelliferae) Angelica archangelica or Garden Angelica or Archangelica
officinalis or Holy Ghost or Wild Celery or Norwegian angelica

Archangel Root or Masterwort or Dong Quai

Root of the Holy Ghost

The following is a statement of reasons for the indication of allowable subject matter: the invention is distinguishable over the prior art by disclosing a cosmetic preparation comprising a liposome-free bioactive mixture of plants having an alcohol base, which consists of a claim-designated percentage amount of an extract obtained from green coffee beans, a claim-designated percentage amount of an extract obtained from the leaves of *Camellia sinensis*, a claim-designated percentage amount of an extract obtained from *Pongamia pinnata*, a claim-designated percentage amount of an extract obtained from the roots of *Angelica archangelica*, and a monovalent C₂-C₅ alcohol making up the remainder up to 100% by weight, wherein the radical protection factor ranges between 1400 and 2900×10^{14} radicals per milligram (gm) and wherein the aforesaid concentrations are relative to the total weight of the cosmetic preparation.

The closest prior art to the invention is taught by Golz-Berner et al. (N1, WO 01/26617 and N2, WO 99/66881). In WO 01/26617, Golz-Berner et al. teach cosmetic preparations which contain active substance preparations with a high radical protection factor. The active substance preparations contain extracts of tea leaves (*Camellia sinensis*), green coffee beans and *Pongamia pinnata* (see example 2; page 17, lines 12 and 13 and page 6, lines 2 - 10). An extract of *Angelica archangelica* roots may also be included. The active substance preparations contain phospholipids, which form associations with the active substance complexes (see claims 1 and 9). In WO 99/66881, Golz-Berner et al. teach cosmetic preparations which contain active substance preparations that have a high radical protection factor and contain extracts of tea leaves (*camellia sinensis*), green coffee beans, *Pongamia pinnata* and

Angelica archangelica roots. The active substance preparations contain phospholipids, which form associations with the active substance complexes (see claims 1 and 12; page 15, line 35 -page 16, line 10; and example 6). Unlike the present invention, the phospholipids in the preparations taught by N1 and N2 are essential to the stability of the radical protection factor of the mixtures. Thus, Applicant's invention distinguishes over the prior art by disclosing compositions based on extracts of green coffee beans, leaves of *Camellia sinensis*, and *Pongamia pinnata* and *Angelica archangelica*, which are prepared without using liposomes and which have a stable radical protection factor, as well as a high radical protection factor.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


MICHELE FLOOD
PRIMARY EXAMINER

Michele Flood
Primary Examiner
Art Unit 1655

MCF
January 22, 2008